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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In Re:)
ATTORNEY DISCIPLINE PROCEDURES) **FIFTH AMENDED**
IN BANKRUPTCY COURT) **GENERAL ORDER 96-05**

Applicability

This general order establishes a process for court wide discipline of attorneys in the bankruptcy court.

These procedures shall apply when any judge of this court wishes to challenge the right of an attorney to practice before this court or recommends the imposition of attorney discipline intended to apply in all bankruptcy cases in this court.

Nothing in this general order is intended to limit or restrict the authority of any judge to impose sanctions on any attorney in any case or cases assigned to that judge.

Initiation of Disciplinary Proceedings

If a bankruptcy judge wishes to initiate disciplinary proceedings under this general order, that judge (the "Referring Judge") shall prepare and file with the Clerk of Court

1 a written Statement of Cause setting forth the judge's basis for recommending discipline and
2 a description of the discipline the referring judge believes is appropriate.

3 The clerk shall open a case file, assign a miscellaneous case number, and initiate a
4 docket for the file. The clerk shall then send notice to all judges of this Court, including any
5 judges on recall, with the Statement of Cause and provide a two-week deadline for any judge
6 to add any additional statement. The clerk shall then select three bankruptcy judges of this
7 district at random (excluding the judge who filed the Statement of Cause and any judge who
8 sent an additional statement) to serve on the Hearing Panel (the "Panel") which will
9 determine whether the attorney shall be disciplined and, if so, the type and extent of
10 discipline. If any of the Statements of Cause have not been served on the attorney under
11 review, they shall be sent to the attorney named in the Statement(s) of Cause. The most
12 senior judge assigned to the Panel shall be the Presiding Judge. The clerk shall prepare a
13 Designation of Hearing Panel and Presiding Judge which shall include a signature line for
14 each of the designated judges. The signature of each judge shall certify his or her
15 acceptance of assignment to the Panel. Should any judge decline to serve, the clerk shall
16 select another judge to serve on the Panel, give written notice thereof to the other judges on
17 the Panel and issue a Supplemental Designation of Hearing Panel, which shall contain a
18 signature line for the newly appointed judge to accept the assignment.

19 Once the clerk has obtained the acceptance of three judges to serve on the Panel,
20 the clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve
21 on the attorney named in the Statement of Cause ("the attorney") and on the local Office of
22 the United States Trustee, along with a copy of the Statement of Cause and a copy of this
23 general order. The attorney may file a motion for recusal as to any of the judges assigned
24 to the Panel within 14 days of the service of the Notice of the Assignment of Hearing Panel
25 and serve the motion on the Office of the United States Trustee. That motion may be heard
26 by any judge other than the referring judge, any judge who sent an additional statement, any
27 judge assigned to the Panel, or any judge who has declined to serve on the Panel. The
28 assignment of the recusal motion to a judge shall be made at random by the clerk, who shall

Hearing Procedures

The attorney may appear at the Disciplinary Hearing with legal counsel and may present evidence:

- (A) Refuting the statements contained in the Statement of Cause;
- (B) Refuting the statements contained in a Response;
- (C) Mitigating the discipline (i.e., that, notwithstanding the validity of the statements in the Statement of Cause or a Response, the attorney should not be disciplined); and
- (D) Bearing on the type and extent of disciplinary action appropriate under the circumstances.

The Federal Rules of Evidence shall apply to the presentation of evidence at the Disciplinary Hearing, and an official record of the proceedings shall be maintained as though the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules of Bankruptcy Procedure. The United States Trustee for the district may appear at the hearing in person or by counsel and may participate in the presentation of evidence as though she or he were a party to the proceeding. If the United States Trustee wishes to appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the purposes for the appearance, and serve that notice on the attorney at least 14 days before the hearing. The Panel may disregard written statements or declarations of innocence or in mitigation of the attorney's conduct unless they are filed with the court with copies delivered promptly thereafter to the chambers of each member of the Panel at least 7 days prior to the hearing. Written statements presented to the Panel for consideration as evidence by or on behalf of the attorney may be disregarded by the Panel if the declarant is unavailable at the hearing for cross-examination and for examination by the Panel.

Ruling

At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to a private session to consider the matter. The ruling of the Panel will be made by majority vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority

1 the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision
2 and its reasons. Any member of the Panel may issue a concurring or dissenting opinion
3 which will be made a part of the Memorandum of Decision.

4 The Panel shall issue a Discipline Order signed by all members of the Panel based
5 on the Panel's Memorandum of Decision. That order may provide for any appropriate
6 discipline, including but not limited to revocation or suspension of the right to practice before
7 all the judges of this court. A copy of the entered Discipline Order shall be served on the
8 attorney, all judges of the United States Bankruptcy Court for the Central District of California
9 and the United States Trustee.

10 The attorney, the Referring Judge and/or the United States Trustee may file a motion
11 for rehearing, clarification or more detailed findings (a "motion for rehearing") within 14 days
12 after entry of the Discipline Order. (Nothing contained in this order precludes the Panel
13 appointed in a given disciplinary proceeding from concluding that a Referring Judge lacks
14 standing to file a motion for rehearing.)

15 The Discipline Order will become final 14 days after entry or, if a motion for rehearing
16 is filed, 14 days after entry of an order denying the motion for rehearing. The same rule as
17 to finality will apply to a new or revised Discipline Order, if one is issued by the Panel after
18 rehearing.

19 The Discipline Order shall be sent by the clerk to the Clerk of the District Court.
20 Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the
21 State Bar of California or published in designated periodicals, or both.

22 If an attorney's practice privileges have been revoked, modified, or suspended by
23 final order of a Panel, the attorney may not appear before any of the judges of this court
24 representing any other persons or entities except in compliance with the terms of the
25 Discipline Order.

Reinstatement

An attorney whose privileges have been revoked, modified, or suspended under this general order may apply to the Chief Judge of this court for reinstatement of privileges on the following schedule:

- (A) If privileges were revoked without condition for an unlimited period of time, the attorney may apply for reinstatement after five years from the date the Discipline Order becomes final;
- (B) If privileges were revoked or suspended with specified conditions precedent to reinstatement, the attorney may apply for reinstatement upon fulfillment of the conditions set forth in the Discipline Order; and
- (C) If privileges were suspended for a specified period of time, the attorney may apply for reinstatement at the conclusion of the period of suspension or five years after the Discipline Order becomes final, whichever first occurs.

An Application for Reinstatement of Privileges must include a copy of the Discipline Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the applicant is in good standing before the United States District Court for the Central District of California and is a member in good standing of the State Bar of California. If the attorney's privileges were revoked, or if the suspension was for a time in excess of five years and was without any conditions precedent to reinstatement, it shall be within the sole discretion of the Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the attorney is entitled to reinstatement of practice privileges, he or she may issue a Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby shall be deemed eligible to practice before all the judges of this court except to the extent any judge of this court has issued an order, other than under this rule, denying that attorney the right to appear before that judge or to appear in a particular case.

Upon entry, the clerk shall transmit a copy to all judges of this court and to the attorney, the clerk of the District Court, and to the United States Trustee. In addition, if the

1 Discipline Order was sent to the State Bar or published, the Clerk shall transmit the
2 Reinstatement Order to the State Bar and publish it in the same publication, if possible. If
3 the Chief Judge does not grant the Application for Reinstatement of Privileges, he or she
4 shall issue an order denying the application together with a separate written statement of
5 the reasons for his or her decision. That order will become final 14 days after entry.

6 If an attorney's Application for Reinstatement of Privileges is denied, he or she may
7 reapply for reinstatement after one year from the date of entry of the order denying the
8 previous application or within such other time or upon fulfillment of such conditions as may
9 be set forth in the order denying reinstatement.

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11 **Maintenance of Discipline Files**

12 Except to the extent that access to a particular file is restricted or prohibited by order
13 of the Chief Judge or the Panel to which the matter was assigned, (1) those files shall be
14 maintained in accordance with applicable law and rules for maintenance of miscellaneous
15 files of this court and shall be available for review and copying by members of the public,
16 and (2) orders, opinions and written memoranda issued in these matters shall be published
17 on the court's website.

18 The clerk shall close a disciplinary file 30 days after entry of a dispositive order
19 (for example, an Order Re Revocation of Privileges or a Reinstatement Order) in that
20 proceeding unless within that time the clerk receives a Notice of Appeal of any order
21 rendered in the proceeding or other information justifying maintenance of the file in an open
22 status. The clerk shall reopen a disciplinary file upon the request of the attorney, for the
23 convenience of the court, or upon order of any judge of this court, whereupon the clerk shall
24 advise the Chief Judge accordingly. So long as any disciplinary files remain open, the clerk
25 shall provide the Chief Judge a quarterly status report of all such open files to which will be
26 attached copies of their dockets. The Chief Judge may order any such files closed when he
27 or she deems it appropriate, consistent with the provisions hereof and the status of any such
28 matter.

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Motion to Have Opinion Removed from Website

At any time after the entry of a Reinstatement Order, the attorney may apply to the Chief Judge of this court for an order directing the Clerk to remove the Discipline Order and any related opinion and memoranda from the court’s website. An application for this relief must include a copy of the Discipline Order and the Reinstatement Order. It shall be within the sole discretion of the Chief Judge whether to grant such an application.

Appeals

All orders issued pursuant to this rule shall be appealable to the extent permitted by applicable law and rules of court.

Date: December 14, 2018

/s/
Sheri Bluebond
Chief Judge, United States Bankruptcy Court